IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 22374 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BALKRISHNA KUBERDAS PARMAR - Petitioner(s)

Versus

DISTRICT PRIMARY EDUCATION OFFICER & 3 - Respondent(s)

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Appearance :

MR AM PAREKH for Petitioner(s) : 1,
MS REETA CHANDARANA, AGP for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 07/03/2006

ORAL JUDGMENT

1.In the present petition, the petitioner has prayed for release of his post retiral benefits.

2.Short facts leading to the petition are that the petitioner who was working as a primary school teacher

run by the District Panchayat retired with effect from 31.5.97. The exact date of entry of the petitioner in service is not available on record. However, it is not in dispute that the petitioner had retired upon crossing the age of superannuation after putting in requisite number of years of service so as to qualify him to receive pension. The petitioner was not paid his post retiral benefits. It appears that his gratuity was not released and his pension was not finalised on account of his involvement in a criminal case at the time of his retirement. Learned AGP Ms.Chandarana appearing for the respondents has pointed out that subsequently, provisional gratuity was paid to the petitioner on 19.8.98. It appears that petitioner is one of the persons against whom a criminal complaint was lodged on 13.12.96 before the Karanj Police Station. It further appears that subsequently upon investigation, the Police Authorities did not find any evidence against the petitioner and the petitioner came to be included in the list of witnesses to be examined by the prosecution. A communication in this regard is produced at page 18 as Annexure D to the petition. The petitioner has also produced a copy of the chargesheet issued by the

Police pursuant to the said complaint in which also, the petitioner is not shown as an accused but as a witness. The petitioner also produced an undated certificate issued by the Education Inspector of Taluka Panchayat, Dehgam in which it is stated that in the report dated 20th May 1999 submitted by the Karanj Police Station, the petitioner is shown as a witness in the said criminal case and except the said complaint, no other inquiry is pending against the petitioner. The petitioner has produced at Annexure F, an order dated 9.8.2002 passed by the learned single Judge of this Court in Special Civil Application No.7457 of 2002 wherein the learned single Judge permitted the petitioner therein who was similarly situated as the present petitioner to make a representation to the authorities for payment of pensionary benefits. It is stated by the learned advocate for the petitioner that pursuant to the representation made by the said petitioner, the authorities have also released his postal retiral benefits.

3. Having heard the learned advocate for the petitioner and learned AGP Ms.Chandarana, I find that there is no dispute about the fact that after retirement, the post

retiral benefits of the petitioner were not fully paid to the petitioner on account of the criminal complaint in which allegations were made against the petitioner. However, upon investigation, the Police authorities found that there is no evidence against the petitioner and instead of showing him as an accused, he is shown as a witness. This also happened way back in the year 1999. The Authorities have also given certificate stating that except the said criminal case, no other inquiry is pending against the petitioner. The petitioner, therefore should have received all his post retiral benefits without any further delay. The respondents, however, did not release the same and the petitioner was, therefore, compelled to file the present petition.

4. In the result, the respondents are directed to release the remaining outstanding postal retiral benefits of the petitioner. The same shall be done within a period of three months from the date of receipt of a copy of this order. Pension of the petitioner shall also be finalised. Considering the fluctuating rate of interest and considering the fact that the petitioner retired way back in the year 1997, such benefits to the extent of delay shall carry simple interest of 7

per cent from the date of his retirement till the actual payment. With these directions, the petition is disposed of. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J)

(vjn)